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From: Pfeifer, David
Sent: Tue 3/11/2014 2:47:43 PM
Subject: EPA's desk statement on the Mesabi motion

On March 10, 2014, the Department of Justice, filed a motion in Federal District Court requesting that the court vacate EPA's approval of a 2012 variance granted by Minnesota Pollution Control Agency (MPCA) for the Mesabi Nugget facility in Hoyt Lakes Minnesota.

This facility is a large scale demonstration project, which produces iron nuggets from iron ore concentrate for use in making steel. The facility discharges into Second Creek, which is a tributary to the Partridge River in the St. Louis River Watershed complex.

EPA's approval of MPCA's variance was challenged in Federal court by two Minnesota environmental advocacy groups (Minnesota Center for Environmental Advocacy and WaterLegacy) and two Minnesota Tribes (Grand Portage and Fond du Lac). The motion is an attempt to resolve the litigation.

If the Court grants the motion, the matter will be sent back to EPA. EPA then intends to send a letter to MPCA disapproving the variance. If MPCA can adequately address the issues raised in the disapproval letter, MPCA will be able to resubmit the variance for EPA review and approval.

EPA's motion, if granted, ends the litigation over EPA's approval of the variance for Mesabi Nugget adopted by the State of Minnesota. Mesabi's National Pollutant Discharge Elimination System (NPDES) permit to discharge was not litigated and EPA's motion does not alter the conditions of the existing permit which was issued by the State of Minnesota under the State's federally authorized Clean Water Act program.

The Mesabi variance applies only to criteria for four specific pollutants in the facility's discharge: bicarbonates, conductivity, hardness, and total dissolved solids. Mesabi did not request and EPA did not grant a variance from Minnesota's water quality criteria for sulfate. The motion also does not preclude Mesabi from reapplying to Minnesota for a variance for bicarbonates, conductivity, hardness, and total dissolved solids.

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Water Quality Standards

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